

Hearing Date: May 21, 2019 at 10:00 a.m.
Objection Deadline: May 14, 2019 at 4:00 p.m.

Thomas R. Slome
Michael Kwiatkowski
MEYER, SUOZZI, ENGLISH & KLEIN, P.C.
990 Stewart Avenue, Suite 300
P.O. Box 9194
Garden City, New York 11530-9194
Telephone: (516) 741-6565
Facsimile: (516) 741-6706
Email: tslome@msek.com
mkwiatkowski@msek.com

and

Russell R. Johnson III (VSB No. 31468)
John M. Craig (VSB No. 32977)
Law Firm Of Russell R. Johnson III, PLC
2258 Wheatlands Drive
Manakin-Sabot, Virginia 23103
Telephone: (804) 749-8861
Facsimile: (804) 749-8862
Email: russell@russelljohnsonlawfirm.com
john@russelljohnsonlawfirm.com

Co-Counsel for Baltimore Gas and Electric Company

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.

)
) **Chapter 11**
)
) **Case No. 18-23538 (RDD)**
)
) **(Jointly Administered)**
)

**APPLICATION OF BALTIMORE GAS AND ELECTRIC COMPANY
PURSUANT TO SECTION 7 OF THE ORDER (I) APPROVING DEBTORS'
PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT TO UTILITY
PROVIDERS, (II) ESTABLISHING PROCEDURES FOR DETERMINING
ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES,
AND (III) PROHIBITING UTILITY PROVIDERS FROM ALTERNATING,
REFUSING, OR DISCONTINUING UTILITY SERVICE [DOCKET NO. 461]
FOR PAYMENT FROM THE ADEQUATE ASSURANCE ACCOUNT**

Baltimore Gas and Electric Company (“BGE”), by counsel, for its Application pursuant to Section 7 of the *Order (I) Approving Debtors’ Proposed Form Of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* [Docket No. 461] (the “Utility Order”), states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334(b) and 11 U.S.C. § 366(c).
2. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A).
3. Venue of this Motion is proper in this district pursuant to 28 U.S.C. § 1409.

Procedural Facts

4. On October 15, 2018 (the “Petition Date”), the Debtors commenced their cases under Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) that are now pending with this Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.
5. The Debtors’ chapter 11 bankruptcy cases are being jointly administered.
6. On October 18, 2018, the Debtors filed the *Motion of Debtors Requesting Entry of an Order (I) Approving Debtors’ Proposed Form of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* (the “Utility Motion”) (Docket No. 196).

7. On November 5, 2018, the Court entered the Utility Order approving the Utility Motion.

8. According to Exhibit 1 to Exhibit 2 to the Utility Order (Pages 11 and 12 of 151), the Debtors placed \$55,263 into the Adequate Assurance Account for BGE.

9. Section 7 of the Utility Order provides:

If the Debtors fail to pay a utility bill when due (including the passage of any cure period), the relevant Utility Provider shall provide notice of such default to the Debtors, and if within five (5) business days of such notice the bill is not paid, the Utility Provider may file an application with the Court certifying that payment has not been made and requesting the amount due up to an aggregate maximum equal to the Adequate Assurance Deposit allocable to such Utility Provider.

Default Notice Issued By BGE

10. On May 2, 2019, BGE, by counsel, issued a default notice to the Debtors pursuant to Section 7 of the Utility Order for the following post-petition invoices that remain unpaid:

- a. invoice on the account ending in 6902, with \$1,144.03 due by April 29, 2019; and
- b. invoice on the account ending in 4230, with \$4,380.32 due by April 26, 2019.

11. Attached as Exhibit 1 to this Application is the Declaration of Dora Hargrove stating that the amounts due have not been paid as of the date of his Declaration.

WHEREFORE, BGE respectfully requests that this Court enter an order:

A. Requiring the Debtors to immediately tender payment to BGE in the amount of \$5,524.35 from the Adequate Assurance Account for the past-due post-petition invoices listed in paragraph 10 of this Application; and

B. Providing such other and further relief as the Court deems just and appropriate.

Dated: Garden City, New York
May 3, 2019

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

By: /s/ Michael Kwiatkowski
Thomas R. Slome
Michael Kwiatkowski
990 Stewart Avenue, Suite 300
P.O. Box 9194
Garden City, New York 11530-9194
(516) 741-6565
Email: tslome@msek.com
mkwiatkowski@msek.com

and

Russell R. Johnson III
John M. Craig
Law Firm of Russell R. Johnson III, PLC
2258 Wheatlands Drive
Manakin-Sabot, Virginia 23103
(804) 749-8861
Email: russell@russelljohnsonlawfirm.com
john@russelljohnsonlawfirm.com

*Co-Counsel for Baltimore Gas and
Electric Company*